is as definite as in the nature of the offense is possible. *State v. Dvoracek,* 140 Ia. 266. See also 19 MICH. L. REV. 648, 218, 337; 18 MICH. L. REV. 810.

TORTS—FAMILY AUTOMOBILE—LIABILITY OF PARENT FOR TORT OF MINOR CHILD IN DRIVING FOR CHILD'S OWN PURPOSE.—The auto of D, driven negligently by his minor son, struck and injured P. In an action for damages against D, the evidence showed that D's son was using the car for his own personal benefit and enjoyment. D did not have knowledge that his son took the car, but it did not appear conclusively that he had been forbidden its use unless D's consent was first obtained. D contended that the facts did not show a liability on his part and made a motion for a directed verdict. *Held,* that the son driving for his own personal enjoyment, and not being the agent of his father so as to render the father liable for his negligence, the motion should have been granted. *McGowan v. Longwood* (Mass., 1922), 136 N. E. 72.

This case follows in the trend of the latest decisions concerning the much disputed question of the father's liability for injuries resulting from the negligent operation of his car by his minor children. See *McFarlane v. Winters,* 47 Utah 598, 155 Pac. 437; *Cohen v. Meador,* 119 Va. 429, 89 S. E. 876; 7 Cal. L. R. 283. All the courts agree that mere ownership or the relationship of the parent will not make him liable. *Erlich v. Heis,* 193 Ala. 669, 69 So. 530; *Woods v. Clements,* 113 Miss. 720, 75 So. 119. There was a time when many courts attached liability to the parent on the doctrine of a dangerous agency, but for the most part that theory is abandoned. *Hartley v. Miller,* 165 Mich. 115, 33 L. R. A. (N. S.) 81; *Birch v. Abercrombie,* 74 Wash. 486, 50 L. R. A. (N. S.) 59. HUDDY ON AUTOMOBILES, Ed. 4, p. 31. Most all the courts agree at the present time that the owner's liability depends on the doctrine of master and servant or *respondeat superior,* except in those states where legislative enactments have done away with the common law doctrines. *Cunningham v. Castle,* 127 App. Div. 580, 111 N. Y. Supp. 1057; *Jones v. Hoge,* 47 Wash. 663, 92 Pac. 433. It is also well settled that a master is not liable for the acts of his servant done outside the scope of the master's business. *Stone v. Hills and others,* 45 Conn. 44; *Halverson v. Blosser,* 101 Kan. 683. But whether a minor son driving his car for his own pleasure can be considered the agent and servant of his father in the father's business, has been a question which has been more or less troublesome for courts in general. A leading family automobile case in Missouri (*Daily v. Maxwell,* 152 Mo. App. 415, 133 S. W. 351) concluded that it was the parent's duty to provide recreation for his children; therefore a minor child driving for his own pleasure was the agent of his father in his father's business. This is the so-called Family Automobile Theory. That this view tends to insure justice, and that it is favored by the weight of authority, was the view taken by the court in *Hutchins v. Haffner,* 63 Col. 365. Another leading automobile case in New Jersey, *Doran v. Thomsen,* 76 N. J. L. 754, 19 L. R. A. (N. S.) 335, took a different view and held that a minor child driving for his own pleasure was not the agent or servant of the father. The latest decisions seem to be in accord

with this case. See 19 MICH. L. REV. 545. The criticism against this view is that in the ordinary case the person injured is unable to collect any damages owing to the lack of financial responsibility of most minors. See 2 VA. L. REV. 208. Many states have passed statutes making the owner of the automobile liable when it is being driven with his express or implied consent. This is the law in Michigan, Sec. 29 of Act 302, Public Acts 1915 (§ 4825, Comp. Laws 1915). Many remedies have been suggested in the past few years. See 9 Cal. L. R. 250. But there is yet a good deal to be done by way of solution.

TRUSTS—CHARITABLE GIFTS SUBSEQUENTLY IMPOSSIBLE OF PERFORMANCE. —In 1903 Leander Clark accepted a public offer of Western College to name their school after the donor of $50,000 to a permanent endowment fund which the college was trying to raise. Mr. Clark proposed, and the college accepted, additional conditions, among which were the following: that the endowment fund was to be set at $150,000, to be "a permanent endowment fund, the principal of which shall be protected and forever held sacred as such and no part of it shall ever, on any pretense or in any emergency, be pledged or hypothecated for any purpose or be temporarily or permanently loaned to any other fund of the college." The Leander Clark College in 1919, being financially unable to continue, negotiated a consolidation with Coe College under the name of the latter, and proposed to transfer the endowment fund to the consolidated school. This transfer was attacked on behalf of parties interested in the residuary estate of Leander Clark. Without deciding the merits of the merger, the court *held* (two judges dissenting), that the parties interested in the residuary estate were not entitled to receive the fund in controversy, remarking that "the dominant purpose of the gift * * * was to establish a perpetual charitable trust for the aid and support of Christian education." *Lupton v. Leander Clark College* (Ia., 1922), 187 N. W. 496.

That such a gift, if to a public charity generally, is valid, though the specific manner of carrying it out has for some reason become impossible, is well established. *Jackson v. Phillips,* 14 Allen (Mass.) 539; *Central University of Ky. v. Walters' Exrs.,* 122 Ky. 65; *Russell v. Allen,* 107 U. S. 163; *Lackland v. Hadley,* 260 Mo. 539; *Richards v. Wilson,* 185 Ind. 335; *Mason v. Bloomington Library Assn.,* 237 Ill. 442; *Hodge v. Wellman* (Ia., 1920), 179 N. W. 534; 2 PERRY, TRUSTS, § 725; BOGERT, TRUSTS, § 63. The Iowa court in the principal case, in deciding that there was a gift to education generally, concluded that the naming of the college for the donor was a secondary consideration. It also concluded that the general intent must prevail in the absence of a specific provision that there should be a forfeiture in case the college could not carry out the conditions. This liberal interpretation seems to be in line with the favorable attitude of the courts toward charitable gifts, *Estate of Hinckley,* 58 Cal. 457; *Duggan v. Slocum,* 92 Fed. 806; and with the principles of interpretation which Mr. Perry suggests: "as in construing deeds under doubtful circumstances," construe the instru-